

(3) *Charges to other entities.* The PACE organization may charge other individuals or entities for PACE services covered under Medicare for which Medicare is not the primary payer, as specified in paragraphs (d)(4) and (5) of this section.

(4) *Charge to other insurers or the participant.* If a Medicare participant receives from a PACE organization covered services that are also covered under State or Federal workers' compensation, any no-fault insurance, or any liability insurance policy or plan, including a self-insured plan, the PACE organization may charge any of the following:

(i) The insurance carrier, the employer, or any other entity that is liable for payment for the services under part 411 of this chapter.

(ii) The Medicare participant, to the extent that he or she has been paid by the carrier, employer, or other entity.

(5) *Charge to group health plan (GHP) or large group health plan (LGHP).* If Medicare is not the primary payer for services that a PACE organization furnished to a Medicare participant who is covered under a GHP or LGHP, the organization may charge the following:

(i) GHP or LGHP for those services.

(ii) Medicare participant to the extent that he or she has been paid by the GHP or LGHP for those services.

[64 FR 66279, Nov. 24, 1999, as amended at 71 FR 71337, Dec. 8, 2006]

#### § 460.182 Medicaid payment.

(a) Under a PACE program agreement, the State administering agency makes a prospective monthly payment to the PACE organization of a capitation amount for each Medicaid participant.

(b) The monthly capitation payment amount is negotiated between the PACE organization and the State administering agency, and specified in the PACE program agreement. The amount represents the following:

(1) Is less than the amount that would otherwise have been paid under the State plan if the participants were not enrolled under the PACE program.

(2) Takes into account the comparative frailty of PACE participants.

(3) Is a fixed amount regardless of changes in the participant's health status.

(4) Can be renegotiated on an annual basis.

(c) The PACE organization must accept the capitation payment amount as payment in full for Medicaid participants and may not bill, charge, collect, or receive any other form of payment from the State administering agency or from, or on behalf of, the participant, except as follows:

(1) Payment with respect to any applicable spenddown liability under §§ 435.121 and 435.831 of this chapter and any amounts due under the post-eligibility treatment of income process under § 460.184.

(2) Medicare payment received from CMS or from other payers, in accordance with § 460.180(d).

(d) State procedures for the enrollment and disenrollment of participants in the State's system, including procedures for any adjustment to account for the difference between the estimated number of participants on which the prospective monthly payment was based and the actual number of participants in that month, are included in the PACE program agreement.

#### § 460.184 Post-eligibility treatment of income.

(a) A State may provide for post-eligibility treatment of income for Medicaid participants in the same manner as a State treats post-eligibility income for individuals receiving services under a waiver under section 1915(c) of the Act.

(b) Post-eligibility treatment of income is applied as it is under a waiver of section 1915(c) of the Act, as specified in §§ 435.726 and 435.735 of this chapter, and section 1924 of the Act.

#### § 460.186 PACE premiums.

The amount that a PACE organization can charge a participant as a monthly premium depends on the participant's eligibility under Medicare and Medicaid, as follows:

(a) *Medicare Parts A and B.* For a participant who is entitled to Medicare Part A, enrolled under Medicare Part B, but not eligible for Medicaid, the